

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, November 1, 2000

Division One

A086925 -- Citicorp North America, Inc. & Affiliates v. Franchise Tax Board

Order Modifying Opinion; and Denying Rehearing. By the Court: It is ordered that the opinion filed October 2, 2000, be modified in the following particulars: (See order.) This modification does not effect a change in the judgment. Appellant's petition for rehearing is denied. Strankman, P.J. (Certified for Publication.)

Division Two

A089488 -- James Chaffee v. San Francisco Library Commission.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A092916 -- Brenda J. O'Haire v. The Superior Court of Alameda County, James W. O'Haire, R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

A089005 -- The People v. Michelle Susanne Speed.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Wednesday, November 1, 2000 (continued)

Division Five

A089049 -- The People v. Florencio Jiminez Becerril.

The judgment is affirmed. Hanlon, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A087483 -- The People v. Bruce Edward Cooper.

The judgment is modified to state that defendant is entitled to 504 days of credit (336 for actual local time served in custody and 168 days for local conduct credits). The trial court is directed to submit an amended abstract of judgment to the Department of Corrections. As so modified, the judgment is affirmed. Rivera, J.* We Concur: Jones, P.J., Stevens, J. (Certified for Partial Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089284 -- In re Jasmine I., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Rivera, J.* We Concur: Jones, Acting P.J., Stevens, J. (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A090408 -- The People v. James Alfred Paskali.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Superior Court of Alameda County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.
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A084853 -- James Porter, Individually and as Executor, etc., and Guardian, etc. v. Laci Le Beau Corporation et al.

The judgment is affirmed. Rivera, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, November 2, 2000

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J, and Marchiano, J.; N. Millner, Deputy Clerk; and CHP Officer S. Aldridge, Bailiff.

A090042 Conservatorship of Ruth Wilson.

Rosalie H. Rowsey,

v.

Jerome Berg.

Cause called and argued by Kathleen U. Poling, counesel for appellant, and Jerome Berg, respondent in pro per. Cause ordered submitted.

A089783 Estate of Sonja Nudelman.

Cathy Stern,

v.

Gerhard Heimann.

In light of the death of appellant in pro per following his request for oral argument, cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Swager joined the bench for the remainder of the morning session.

A089615 The People,

v.

Joey Alcutt.

Cause called and argued by Tara M. Mulay, counsel for appellant, and Catherine Rivlin, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A089069

Carl W. Youngert, et al.

v.

Wells Fargo Bank, et al.

Cause called and argued by Albert L. Boasberg, counsel for appellants; Herber Carlton Leney, counsel for respondent Wells Fargo Bank; and Abraham J. Colman, counsel for respondent Citibank, via teleconference. Cause ordered submitted.

A089032

Giovana Rovetti.

v.

Marriott International, Inc., et al.

Cause called and argued by Michele A. Carli, counsel for appellant, and Matthew S. Conant, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, November 2, 2000

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Marchiano, J.; B. Robbins, Deputy Clerk; and CHP Officer T. Tam, Bailiff.

A087590/
A088703 Robin Hendrickson, et al.
v.
Estate of Roger Petersen.

Antoinette Sinai,
v.

Estate of Roger Petersen.

Causes called and argued by Paul McCarthy, counsel for appellant, and Jules Bonjour, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Strankman joined the bench and presided over the remainder of the afternoon session. Justice Swager left the bench.

A088632 The People,
v.
Barry Whitley.
Cause called and argued by Rudy Kraft, counsel for appellant, and Pamela K. Critchfield, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A083341 The People,
v.
Russell Bernardini.
Cause called and argued by Jonathan D. Soglin, counsel for appellant, and Ross Moody, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A088247 Pacific Bell,
v.
Public Utilities Commission of California;
Irvine Apartments Communities, et al.
Cause called and argued by Kevin M. Fong, counsel for petitioner; Dale Holzschuh, counsel for Public Utilities Commission; and Lee Burdick, counsel for real party in interest Irvine Apartments Communities. The Court granted the parties 10 days to respond to real parties' request for judicial notice, filed November 2, 2000. Submission deferred 10 days.

A085991 F.W. Spencer & Son, Inc.
v.
Nibbi-Tom, et al.
Cause called and argued by Jewell Hargleroad, counsel for appellant, and Joel Yodowitz, counsel for respondent. Cause ordered submitted.

Court adjourned.

Thursday, November 2, 2000

Division One

A088886 -- In re Felicia F., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Strankman, P.J. We Concur: Stein, J., Marchiano, J. (Not for Publication.)

Division Two

A087672 -- The People v. Thomas L. Dudney.

The matter is remanded to the trial court for clarification of the sentence and correction of the abstract of judgment. In all other respects the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A092933 -- Elnora Terrell v. The Superior Court of Alameda County; Marian Allred, R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

Division Five

A088620 -- The People v. Bernard Hicks, Jr.

The admissions of the allegations, which charge the prior convictions, are reversed and the matter is remanded to the trial court to determine the truth of such allegations and for resentencing. The judgment of conviction is otherwise affirmed. Stevens, J. We Concur: Jones, P.J., Rivera, J.* (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, November 3, 2000

Division One

A090867 -- In re Antoine Lajohn H., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A092941 --Derrick A. Mitchell v. The Superior Court of the Alameda County; The People of the State of California, R.P.I.

By the Court: The petition for writ of prohibition is denied. Kline, P.J.

A091678 -- National Health Laboratories, Inc. et al. v. The Superior Court of Alameda County; Sherman Kassof et al., R.P.I.

By the Court:* Let a peremptory writ of mandate issue directing the superior court to vacate its February 29, 2000, order granting plaintiffs' motion to certify a nationwide class action, and to enter a new and different order denying plaintiffs' motion for certification of a nationwide class, without prejudice to any further motion for certification of a different class, classes or subclasses consistent with our opinion. The stay previously imposed shall remain in effect until the remittitur issues. Each party shall bear its own costs.

*Kline, P.J., Lambden, J. and Ruvolo, J. (Not for Publication.)

Division Three

A088629 -- In re Patrick C., a Person Coming Under the Juvenile Court Law.

The juvenile court's order is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Friday, November 3, 2000 (continued)

Division Four

A088653, A088656 -- Adoption of Aaron H., a Minor.

By the Court: The request of respondent Alexis H. for publication of this court's October 20, 2000 opinion is granted, and it is hereby ordered that said opinion be published in the Official Reports of the State of California. Hanlon, P.J.

Division Five

A088938 -- John E. Barella v. Exchange Bank.

The order granting plaintiff's motion to strike defendant's cost bill and the order denying defendant's motion to tax plaintiff's cost bill are affirmed. Costs on appeal are awarded to respondent, John E. Barella. Rivera, J.* We Concur: Jones, P.J., Stevens, J. (Certified for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

November 3, 2000 (continued)

Division Five

et al

We reverse the judgment of the trial court with respect to the claim for with respect to the claims of Rodriguez and Canizales for intentional infliction of emotional distress against Nagah. In all other respects, the judgment is affirmed.

P.J., Stevens, J. (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice

Division Four

A092341 -- Rebecca G. v. The Superior Court of Del Norte County;

The petition is denied on its merits. (§ 366.26, subd. (l)(1); Cal. Rules of Court, rule 39.1B(d)(2).) The stay previously imposed is vacated. This opinion is final forthwith. (*Id.*, rule 24(a).) Woolard, J.* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

A089643 -- In re Amber A., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Rivera, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089352 -- The People v. Gary Gene Cook.

The judgment is modified to provide that execution of the concurrent sentence imposed on count III is stayed pending the finality of our opinion and pending completion of the sentence imposed on counts I and VI, at which time the stay shall become permanent. The trial court is directed to submit a corrected copy of the abstract of judgment to the Department of Corrections.

As so modified, the judgment is affirmed. Rivera, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089356 -- The People v. Roderick Dewellyn May.

The appeal is dismissed. Rivera, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, November 6, 2000 (continued)

A088478 -- Vickie P. Smith v. Kaiser Foundation Health Plan et al.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Rivera, J.*
(Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice
pursuant to article VI, section 6 of the California Constitution.

Tuesday, November 7, 2000

Division One

A089615 -- The People v. Joey Alcutt.

The judgment is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A091564 -- Fannie Mae v. Oak Park Apartments Associates, Inc.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Strankman, P.J.

A092638 -- Frederick Tautenhahn, et al. v. Daly City Redevelopment Agency, et al.

By the Court: Appellant having failed to file a docketing statement in compliance with rule 2(a), First District Local Rules, after notice given dated 10/18/00, the appeal is dismissed. Strankman, P.J.

A090042 -- Conservatorship of the Person and Estate of Ruth Wilson.

The December 7, 1999, amended order settling the second account and awarding fees is affirmed. Strankman, P.J. We Concur: Stein, J., Marchiano, J. (Not for Publication.)

A089069 -- Carl W. Youngert et al. v. Wells Fargo Bank, N.A., et al.

Plaintiffs' complaint did not state a cause of action for negligence or invasion of privacy, and they have not demonstrated the reasonable possibility that the defects in their complaint can be cured by amendment. The judgments of dismissal are affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Tuesday, November 7, 2000 (continued)

Division Two

A087663 -- Howard E. McNier v. Trustees of the California State University.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A088691 -- The People v. David Allen Perez.

Appellant's conviction of kidnapping for purposes of carjacking is affirmed. The judgment shall be modified to reflect a stayed sentence on count two and, as so modified, is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Certified for Partial Publication.)

Division Three

A089857 --John Minster v. Contadina Foods, Inc.

Order Modifying Opinion. By the Court: The opinion filed October 27, 2000, is ordered modified as follows: (See order.) This modification does not effect a change in the judgment. McGuiness, P.J. (Certified for Publication.)

Division Four

A089229 -- The People v. Ray Edward Crummett.

The judgment is affirmed. Hanlon, P.J. We Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, November 7, 2000

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Reardon, J. and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Scott Mills, Bailiff.

- A088294 Laversa Pier
 v.
 Annie bell Ratcliffe
Cause called. In pro per appellant Laversa Pier argued. Howard Berman argued for respondent. Cause submitted.
- A088895 Ralph P. Schmidt et al.
 v.
 Brian R. Endier et al.
Cause called. James C. Parker argued for appellants Schmidt et al. Richard Diestel argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Hanlon, P.J., Reardon, J. and assigned judge Judge Charlotte Woolard.

- A089268 People
 v.
 Jonah McFarland
Cause called. Jeffrey Glick argued for appellant McFarland. Dorian Jung argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J. and assigned judge Judge Charlotte Woolard.

- A088689 People
 v.
 Cornelius Saulsberry
Cause called. L. Richard Braucher argued for appellant Saulsberry. Stan Helfman argued for respondent. Cause submitted.

A089608

People

v.

Hector Alvarez Martinez

Cause called. Carol Bishart Sani argued for appellant Martinez. John Deist argued for respondent. Cause submitted.

The Court adjourned at 10:30 a.m.

Wednesday, November 8, 2000

Division One

A085991 --Nibbi-Tom, J.V. v. F.W. Spencer & Son, Inc.

That portion of the judgment awarding prejudgment interest is reversed and remanded for reconsideration. In all other respects, the judgment is affirmed. Each party is to bear its own costs. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A088632 -- The People v. Barry Whitley.

The order is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A086974 -- Adham Ayesh, a Minor, etc., et al. v. Fatima and Nayef Ayesh.

The judgment is affirmed. Appellants Fatima Ayesh and Nayef Ayesh shall pay costs on appeal to respondent Adham Ayesh. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A089525 -- Brian H. Johnston v. Sri International, Inc.

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Four

A090404 -- The People v. Dixie Anais Diaz.

The judgment is affirmed. Hanlon, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Wednesday, November 8, 2000 (continued)

A090894 -- The People v. Johnny Cleveland Hickman.

Judgment affirmed. Reardon, J. We Concur: Hanlon, P.J., Woolard, J.*
(Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089268 -- The People v. Johah McFarland.

The judgment is affirmed. Reardon, J. We Concur: Hanlon, P.J.,
Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A090717 -- In re Diedreann S., a Person Coming Under the Juvenile Court Law.

The orders are affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J.,
Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, November 9, 2000

Division One

A083341 -- The People v. Russell Bernardini.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Division Two

A089339 --Diversified Equity Holdings v. Dean Witter Reynolds.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A090392 -- The People v. Paul Dufrisne.

By the Court: The motion to dismiss is denied. We treat the appeal as a petition for writ of habeas corpus and deny the petition. Kline, P.J.

Division Three

A092358 -- Diane C. v. The Superior Court of Sonoma County; Sonoma County Department of Human Services, R.P.I.

The petition for extraordinary relief is denied on its merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard, supra*, 3 Cal.4th at p. 894.) Because the section 366.26 hearing is set for November 15, 2000, our decision is final immediately. (Cal. Rules of Court, rule 24(d).) McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A090716 -- In re Jason W., a Person Coming Under the Juvenile Court Law.

In sum, we find no arguable issues for review, pursuant to *People v. Wende, supra*, 25 Cal.3d 436. The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Thursday, November 9, 2000 (continued)

Division Four

A084365 -- Richard K. Barber et al. v. East Bay Municipal Utility District et al.

The judgment is affirmed. Hanlon, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A090492 --In re Golden Eagle Insurance Company in Conservation of Assets.

The order of the trial court is affirmed. Rivera, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A087897 -- The People v. Gregory Garland Rossignon.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Rivera, J.* (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, November 13, 2000

Division Two

A086104 -- The People v. Anthony Tyrone Davis.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A092733 -- Antione Th. Kohler et al. v. The Superior Court of Marin County; Robert C. Pierce et al.

By the Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

A092817 -- Texas Childrens's Hospital v. The Superior Court of Sonoma County; Tim J. Mattis et al., R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Monday, November 13, 2000

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk

- A090082 John Hickey Brokerage
 v.
 City and County of San Francisco
 Cause called and argued by Susan S. Cleveland, counsel for appellant and
 Andrew J. Wiegel, counsel for respondent. Cause ordered submitted.
- A087591 Adolphus Ray Morgan
 v.
 Regents of the University of California
 Cause called and argued by Dorothy Guillory, counsel for appellant and
 Stephanie Leider, counsel for respondent. Cause ordered submitted.
- A087428 Charles R. Stephens, et al.
A088253 v.
 Roberts Tile, Inc.
 Cause called and argued by Cheryl P. Martinsen, counsel for plaintiffs and Robert
 Christensen, counsel for defendants. Cause ordered submitted.

At this point in the proceedings, Justice Haerle left the bench and Justice Ruvolo joined the bench.

Monday, November 13, 2000 (continued)

Division Four

A086367 -- William Steinsmith v. Medical Board of California.

The judgment is reversed with costs to the Board. Hanlon, P.J. We
Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice
pursuant to article VI, section 6 of the California Constitution.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Tuesday, November 14, 2000

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Haerle, Acting P. J., Lambden, J., Ruvolo, J. and I. Santos, Deputy Clerk.

- A089667 The People,
 v.
 Kevan Michael Simpson.
Cause called and argued by Kathryn Ann Seligman, counsel for appellant, and Kelly M. Cross, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A086607 Alicia Dahlin,
 v.
 El Torito Restaurants, Inc.
Cause called and argued by William Ruel Walker, counsel for appellant, and Craig Stewart, counsel for respondent. Cause ordered submitted.
- A090136 International Federation of Professional and Technical Engineers, Local 21, AFL-CIO,
 v.
 Health Service Board of the City and County of San Francisco et al.
Cause called and argued by Duane Westlee Reno, counsel for appellant, and Molly Stump, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened in its courtroom at 1:30 p.m. Present: Kline, P.J., Haerle, J., Ruvolo, J. and I. Santos, Deputy Clerk.

- A091107 In re Jarrod C., a Person Coming Under the Juvenile Court Law.
 The People,
 v.
 Jarrod C.
Cause called and argued by Alan Siraco, counsel for appellant, via teleconference, and Christopher Grove, Deputy Attorney General, counsel for

respondent. Cause ordered submitted.

- A088103 The People,
v.
Ernie Wally Rogers, Jr.
Cause called and argued by Laureen Anne Bethards, counsel for appellant, and
Aileen Bunney, Deputy Attorney General, counsel for respondent. Cause ordered
submitted.
- A088644 Carl James Miller et al.,
v.
Weinstein Chemicals Incorporated.
Cause called and argued by Ian Dillon, counsel for appellant, and Dena Roche,
counsel for respondent. Cause ordered submitted.
- A088853 Todd H. Meyers et al.,
v.
Rhone-Poulenc, Inc., et al.
Cause called and argued by Robert Eassa, counsel for appellant, and Randal
Barnum, counsel for respondent. Cause ordered submitted.
- A090512 Jesse J. Brown,
v.
California State Personnel Board;
Department of General Services.
Cause called and argued by Joan Branin, counsel for appellant, and Brian Taylor,
counsel for respondent.

COURT ADJOURNED.

Tuesday, November 14, 2000

Division Three

A089369 -- The People v. Patrick Howard Cornell.

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

A086736 -- Alice Lane v. City and County of San Francisco.

The order is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A084108 -- The People v. Johnny Harvey Radford, Jr.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

A088724 -- John A. Roberts. v. Hutka Mini Storage et al.

A088726 -- Timothy B. Manning v. Hutka Mini Storage et al.

A088730 -- Tony W. Jones v. Hutka Mini Storage et al.

The trial court's order with regard to attorney fees for the legal services provided by Mr. Tanke is affirmed. The trial court's order with regard to attorney fees for the legal services provided by Mr. Brown is vacated. The matter is remanded solely to allow the trial court to determine reasonable attorney fees and other costs on both the prior and current appeals. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

Division Four

A090210 -- The People v. Jose L. Contreras.

The judgment is affirmed. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Tuesday, November 14, 2000

Division Four

A087024 -- The People v. Derrick Cooper.

The judgment is modified to reflect that defendant was armed with a deadly weapon during the commission of the crime alleged in count VII (first degree robbery), and that no additional time was imposed as a result of that finding. The matter is remanded for resentencing to allow the trial court to exercise its discretion, in light of this modification, whether to designate count I (first degree burglary) as the principal term. After resentencing, the court shall forward a certified copy of the amended abstract of judgment to the Department of Corrections. In all other respects the judgment is affirmed. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A092555 -- Nina H. v. The Superior Court of Sonoma County; Department of Human Services, R.P.I.

The section 366.26 hearing is set for November 22, 2000. This opinion is final as to this court forthwith. (Cal. Rules of Court, rule 24(a).) Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A089735 -- The People v. Douglas Frank Hatwig.

Finding no error in the trial court's determination to revoke defendant's probation, the judgment is affirmed. Sepulveda, J. We Concur: Hanlon, P.J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A088858 -- Kristy Shubin v. William Lyon Homes, Inc. et al.

The order denying the employer's motion to compel arbitration is reversed. The trial court is ordered to enter an order severing the words "or administrative" from the last sentence of the binding arbitration clause and to enforce the remaining portions of the agreement. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Certified for Publication.)

Tuesday, November 14, 2000 (continued)

A092263 -- Stephanie Waller v. Murray Petersen.

The motion for respondent Stephanie Waller to dismiss the appeal of appellant Murray B. Petersen is granted. (See order.) Thus, this court has no jurisdiction to take any action in this purported appeal other than to dismiss it. In light of this conclusion, Petersen's request for a second extension of time within which to file opposition to the motion is denied. Hanlon, P.J. We Concur: Reardon, J., Woolard, J.*

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

A087333 -- Wendi L. Harris v. Lois M. Lammers.

By the Court: It is ordered that the opinion filed herein on October 18, 2000, be certified for partial publication pursuant to rule 976.1 of the California Rules of Court with the exception of part IIA. This order does not effect a change in the judgment. Jones, P.J.

Wednesday, November 15, 2000

Division One

A091379 -- In re Ann C., a Person Coming Under the Juvenile Court Law, The People v. Ann C.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Strankman, P.J.

Division Two

A089785 -- Chicago Title Company v. Kenneth M. Bareilles et al.

The judgment appealed from is reversed insofar as it is based on CTC's first and third causes of action, and the trial court is directed to enter judgment for the appellants on those causes of action. The matter is remanded to the trial court for clarification of its ruling on CTC's second cause of action. If its intent was not to rule in CTC's favor on that cause of action, it shall also enter judgment for appellants on it. If, however, it intended to rule in CTC's favor thereon, it should enter a judgment to that effect, accompanied by an explanatory memorandum of decision. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A092991 -- John De Armond v. The Superior Court of San Francisco County; Robert Kane, R.P.I.

By the Court: The petition for writ of mandate is denied without prejudice. Petitioner must first seek relief, if any, in the superior court. Kline, P.J.

A093004 -- In re Robert Howard Singer, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied without prejudice to petitioner seeking relief, if any, in the Sixth District Court of Appeal. Kline, P.J.

Wednesday, November 15, 2000 (continued)

A088294 -- Anthem Life Insurance Company of California. v. La Versa Pier et al.

We find no error in the decision of the trial court and the judgment is therefore affirmed. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A089608 -- The People v. Hector Alvarez Martinez.

The judgment is affirmed. Woolard, J.* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089642 -- In re Michael W., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Hanlon, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Thursday, November 16, 2000

Division One

A091259 -- The People v. Ruben Ruelas.

The order revoking probation and imposing appellant's previously stayed prison term is affirmed. Stein, J. We concur: Strankman, P. J., Swager, J. (Not for Publication.)

A088247 -- Pacific Bell v. Public Utilities Commission.

The PUC's decision is affirmed. Stein, J. We concur: Strankman, P. J., Swager, J. (Not for Publication.)

A089378 -- Guardianship of Olivia J.

Pursuant to California Rules of Court, rules 976(b) and 976.1, this opinion filed herein on October 17, 2000, is certified for partial publication. This opinion is to be published in full with the following exceptions: (See order.) Strankman, P. J. (Certified for Partial Publication.)

A091399 -- In re Akil W., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P. J., Marchiano, J. (Not for Publication.)

Division Two

A086776 - The People v. Grady Arnold.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P. J., Lambden, J. (Not for Publication.)

A087659 -- Tony E. Gaetani, Sr. v. Goss-Golden West Sheet Metal Profit Sharing Plan.

The judgment is affirmed. Lambden, J. We concur: Kline, P. J., Ruvolo, J. (Certified for Partial Publication.)

Thursday, November 16, 2000 (continued)

Division Three

A084978 -- The People v. James L. Houston.

A086796 -- In re James L. Houston on Habeas Corpus.

The judgment is affirmed and the petition for writ of habeas corpus is summarily denied. Parrilli, J. We concur: McGuiness, P. J., Corrigan, J. (Not for Publication.)

A089773 -- Sheryl Fuata v. Vicki Wallace.

The judgment is affirmed. Corrigan, J We concur: McGuiness, P. J., Parrilli, J. (Not for Publication.)

Division Five

A090726 -- In re Gerrell K., a Person Coming Under the Juvenile Court Law.

The finding on count 1 is reversed. In all other respects the judgment is affirmed. Rivera, J.* We concur: Jones, P. J., Stevens, J. (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, November 16, 2000

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.
Present: Jones, P.J.; Stevens, J.; Rivera, J., on assignment by the Chief Justice and Richard H. Sandvik, Deputy Clerk.

- A088393 Webcor Builders
 v.
 Atlas Construction Supply, Inc.
 Cause called and argued by Anthony T. Ditty, counsel for appellant and by Richard T. Bowles,
 counsel for respondent. Cause ordered submitted.
- A089156 Webcor Builders
 v.
 Atlas Construction Supply, Inc.
 Cause called and argued by Anthony T. Ditty, counsel for appellant and by Richard T. Bowles,
 counsel for respondent. Cause ordered submitted.
- A089985 In Re The Estate Of Regis Swetmann, Deceased.
 John Corcoran et al.
 v.
 George Cushing
 Cause called and argued by Ruth D. Sullivan, counsel for appellant and by Dario B. DeGhetaldi,
 counsel for respondent. Cause ordered submitted.
- A090985 Paul Hoffman et al.
 v.
 Kathleen Connell et al.
 Cause called and argued by Daniel E. Post, counsel for appellant and by Ronald Placet, counsel for
 respondent. Cause ordered submitted.
- A091145 Insurance Commissioner Of The State of California
 v.
 Golden Eagle Insurance Company
 Brutoco Engineering & Construction, Inc.
 Cause called and argued by Paul M. Mahoney, counsel for appellant and by Kelly K. Beck, counsel
 for respondent. Cause ordered submitted.

A089218 As You Sow
v.
Clifford A. Chanler
Cause called and argued by James D. Boughey, appearing by teleconference, counsel for appellant and by Thomas F. Hyde, counsel for respondent. Cause ordered submitted.

A087662 Sally H. Libbee et al.
v.
Ingalls Shipbuilding, Inc.
Cause called and argued by Kirk C. Jenkins, counsel for appellant and by Phillip S. Chan, counsel for respondent. Cause ordered submitted.

A083925 The People
v.
Lawrence Dean Padilla
Cause called and argued by James Kyle Gee, counsel for appellant and by David Rose, Deputy Attorney General, appearing by teleconference, counsel for respondent. Cause ordered submitted.

A087919 The People
v.
Gonzalo Cachola Camarillo
Cause called and argued by Joseph G. Baxter, counsel for appellant and by John R. Vance, Jr., Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A090682 Amos Hodgson
v.
Hugo Boye-Guzman et al.
Cause called and argued by Joan E. Herrington, counsel for appellant and by Thomas G. F. Del Beccaro, counsel for respondent. Cause ordered submitted.

Court adjourned at 1:50 p.m.

Friday, November 17, 2000

A089713 -- The People v. Arturo Vega Mendoza.

The judgment is affirmed. Strankman, P. J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A085962 -- The People v. Benjamin Gonzales.

Accordingly, the judgment is affirmed. Swager, J. We concur: Strankman, P. J., Stein, J. (Not for Publication.)

A092231 -- Domiciana T. Dioquino v. Carla Rogers et al.

By the Court: The motion filed October 25, 2000 in the above-captioned appeal is granted in part and denied in part. The motion to dismiss the appeal is granted. The request to file documents under seal and to seal file is denied. Strankman, P. J.

Division Two

A091095 -- The People v. Walter Thompson.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P. J., Lambden, J. (Not for Publication.)

Division Three

A085302 -- The People v. Donnie Ray Perry.

The judgment is affirmed. Corrigan, J. We concur: McGuinness, P. J., Parrilli, J. (Not for Publication.)

Friday, November 17, 2000 (Continued)

Division Four

A087917, A088551 -- The People v. Ara Davidian.

The purported appeal from the order revoking probation is dismissed. The judgment is reversed as to the false imprisonment count and affirmed with respect to the validity of all other counts. The cause is remanded to the trial court for further proceedings in conformity with this opinion. Hanlon, P. J. We concur: Reardon, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A088765 -- The People v. Donald Emory.

The order reinstating appellant on probation is affirmed in all respects. Reardon, Acting P.J. We Concur: Woolard, J.*, Sepulveda, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Four

A092940 -- The People ex rel. Department of Transportation v. Nano Maldonado.

By the Court: By order dated November 2, 2000, the court issued a temporary stay, allowed respondent to file opposition to the petition, and advised the parties that a writ of supersedeas might issue without oral argument (Cal. Rules of Court, rule 49). Respondent elected not to file opposition to the petition. The court hereby GRANTS the petition for writ of supersedeas. Pending resolution of the appeal in case number A089538, enforcement of the October 20, 1999 judgment granting injunctive relief in People ex rel. Department of Transportation v. Nano Maldonado, San Mateo County Superior Court Action No. 405466, is hereby STAYED. Unless otherwise ordered, the stay will dissolve upon issuance of the remittitur in case number A089538. (Cal. Rules of Court, rule 25.) The Clerk shall file a copy of this order in the appeal in case number A089538. Jones, P.J.

Monday, November 20, 2000

Division One

A089167 -- The People v. Rudy Paredes.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Division Three

A091107 -- In re Jarod C., a Person Coming Under the Juvenile Court Law.

The order appealed from is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A092752 -- Charlie Mae Knight v. The Superior Court of San Mateo County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied and the stay previously imposed is lifted. Kline, P.J.

A086752 - The People v. Roland Kramer.

A091954 -- In re Roland Kramer.

The judgment is affirmed. The petition for writ of habeas corpus is denied. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A085228 -- Louis Pettus v. E.I. Du Pont De Nemours & Company, Inc., et al.

The judgment is reversed insofar as it fails to order prejudgment interest on Pettus's award of back pay and the matter is remanded for calculation of the amount of such interest in accordance with the views expressed in this opinion. In all other respects, the judgment is affirmed. Respondents Cole and Unger shall recover their costs as against appellant Pettus. Pettus shall recover his costs on the cross-appeal against cross-appellant DuPont. Haerle, J. I concur: Ruvolo, J. (Not for Publication.) (See concurring and dissenting opinion by Kline, P.J.)

Monday, November 20, 2000 (continued)

A090634 -- Barbara Smith v. Lawrence C. Geare.

The judgment is affirmed. Respondent shall have costs on appeal.
Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A093037 -- M. Snow v. The Superior Court of Humboldt County;
American Hospital Management Corporation et al, R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

Division Three

**A086300 -- The People v. Eddie DeWeaver,
A092126 -- In re Eddie DeWeaver on Habeas Corpus.**

The conviction and sentence are affirmed. The petition for writ of habeas corpus is denied. Walker, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

A088587 -- Sharon Gregory et al. v. Teresa Rosso et al.

The judgment is affirmed. Respondents shall recover their costs on appeal.
Walker, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A086684 -- In re Jeffrey T., a Person Coming Under the Juvenile Court
Law.**

The judgment and commitment are affirmed. Walker, J. We Concur:
McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A087645 -- Robert W. Fivis et al. v. Callister Gately Associates.

The order denying the motion to compel arbitration is affirmed. Hanlon,
P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A091233 -- The People v. Krystal Marie Jordan.

The orders of the trial court are affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, November 21, 2000

Division One

A089524 -- County of Sonoma et al. v. Commission on State Mandates et al.

The state is not obligated to reimburse local governments for the challenged change in allocation of property tax revenues among local entities. The reallocation of revenue resulting from the challenged legislation imposes no reimbursable cost on local governments and is neither a “new program” nor a “higher level of service” within the meaning of the Constitution. The Legislature is the proper forum to address those perceived inequities and to seek fiscal relief. The judgment of the superior court is reversed and remanded with instructions to enter a new judgment denying the petition for writ of mandate. In the interests of justice each party should bear its own costs on appeal. Marchiano, J. We Concur: Strankman, P.J., Swager, J. (Certified for Publication.)

Division Two

A088840 -- Ken Jones v. Gray Davis et al.

This appeal is dismissed, without reaching the merits, for lack of appellate jurisdiction. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A090245 -- Estate of Vera Perrott Vietor, Deceased.

The judgment is affirmed. Foundation is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Tuesday, November 21, 2000 (continued)

Division Three

A091335 -- Hansvuerger et al. v. The Superior Court of Sonoma County; Bruce Scharbius, R.P.I.

Let a peremptory writ of mandate issue directing respondent superior court to vacate its order denying the motion for mandatory dismissal pursuant to section 583.360 and to enter a new and different order granting the motion. The temporary stay of further proceedings in the court below shall remain in effect until this decision becomes final as to this court. Enz and RELS shall recover their costs herein. McGuiness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A090873 -- The People v. Eugene Newton Griffith.

Appellant filed a timely notice of appeal on April 7, 2000.

We have independently reviewed the entire record, and find no errors or issues requiring further briefing. Affirmed. Walker, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A090677 -- In re Robert J., a Person Coming Under the Juvenile Court Law.

The juvenile court's visitation order is affirmed. Walker, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A088255 -- Kenneth Lee v. Jefferson School District et al.

Reversed and remanded with instructions for the trial court to grant appellant leave to amend the complaint. Walker, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

A090052 -- The People v. Zachary Terry Harris, Sr.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, November 21, 2000 (continued)

A090233 -- The People v. Lori Lynn Hatch.

The judgment of the trial court is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, November 22, 2000

Division One

A090849 -- The People v. Gayardo Escoto.

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Division Two

A070749 -- Richard A. Canatella et al. v. Alexander Landau et al.

We grant the Cantellas' motion to dismiss. We hereby dismiss the appeal and cross-appeal. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A091321 -- Francis Thomas Fahy v. California State Automobile Association Inter-Insurance Bureau.

The judgment of dismissal is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A086851 -- Nicholas C. Guinness et al. v. Tamalpais Union High School District et al.

The order taxing costs is reversed and remanded for further proceedings consistent with this opinion. The judgment is otherwise affirmed. Defendants are awarded costs on appeal. No party is awarded costs for the cross-appeal. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A091235 -- The People v. Lavelle Anthony Rose.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A076953B -- The People v. James Earl Rivera.

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Walker, J. (Not for Publication.)

Wednesday, November 22, 2000 (continued)

Division Four

A089002 -- The People v. Charles Epps.

The cause is remanded to the trial court with directions to reinstate the allegations pursuant to section 667, subdivision (a) and conduct further proceedings consistent with this opinion. In all other respects, the judgment is affirmed. Hanlon, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A090278 -- In re Jason, J., a Person Coming Under the Juvenile Court Law. The People v. Jason J.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A091158 -- In re Jason S., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Richman, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A090071 -- The People v. Thomas Washington.

The trial court is ordered to prepare and to forward to the Department of Corrections an amended abstract of judgment showing appellant is entitled to 111 days of conduct credit. In all other respects, the judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, November 27, 2000

Division One

A087590 -- Chase S. a Minor, etc. et al. v. Amy J. McQueen, as Personal Representative, etc.

A088703 -- Antoinette Sinai v. Amy J. McQueen, as Personal Representative, etc.

The judgments of the trial court in the consolidated cases are affirmed.
Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A087107 -- Fairhaven Power Company, et al. v. Pacific Gas & Electric Company.

Having concluded that the phrase “term of agreement,” as used in the power purchase agreements, is not reasonably susceptible to appellants’ interpretation, we affirm the trial court’s grant of summary judgment in favor of PG&E without reaching a determination as to the proper interpretation of the phrase. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A083235 -- The People v. Darrell Younger.

The murder conviction is reversed; the car theft conviction is affirmed.
Parrilli, J. We Concur: McGuinness, P.J., Walker, J. (Certified for Publication.)

Division Four

A087725 -- In re Morris D., a Person Coming Under the Juvenile Court Law.

The adjudication and disposition orders are affirmed. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

Monday, November 27, 2000 (continued)

Division Four (continued)

A087302 -- Sharon Davena v. Bank of America.

For each and all of these reasons, plaintiff's request for sanctions is denied. The summary judgment is affirmed. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A087405 -- Siskana Eisenbise, a Minor, etc. v. Vallejo City Unified School District.

The judgment is reversed. District to bear costs on appeal. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A087951 -- Michael Miltner et al. v. State of California.

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed October 26, 2000, be modified as follows: (See order.) There is no change in the judgment. Respondent's petition for rehearing is denied. Hanlon, P.J. (Not for Publication.)

A089727 -- Francis Sever et al. v. City of Oakland et al.

The dismissal order is affirmed. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A089283 -- In re Alexias Sue V., a Person Coming Under the Juvenile Court Law.

The order of the juvenile court is affirmed. Woolard, J.* We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, November 27, 2000 (continued)

Division Five

A087919 -- The People v. Gonzalo Cachola Camarillo.

The judgment is reversed. The matter is remanded to the trial court with instructions to vacate the finding of a felony violation, and to find appellant guilty of a misdemeanor violation of section 23152. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Certified for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, November 28, 2000

Division One

A089783 -- Estate of Sonja Nudelman, Deceased.

The order denying appellant's motion to vacate is affirmed. Marchiano, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

A090176 -- The People v. Darrell Ramey.

The January 28, 2000 recommitment order is reversed with directions as follows: Appellant may submit a written demand for a jury trial to the trial court. Upon filing of a demand, such trial shall be set to take place on the allegations and evidence relevant to the March 1, 1999, section 2970 petition. If appellant declines to submit a written demand, the remittitur issued in this case shall constitute affirmance of the January 28, 2000 order. Marchiano, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

A092898 -- In re Marriage of Raymond and Letitia Robinson.

Raymond Robinson v. Letitia A. Robinson.

Appellant having failed to pay the statutory filing fee in compliance with rule 1(c) of the California Rules of Court, after notice having been given pursuant to rule 10(a), the appeal filed on October 12, 2000 is dismissed. Strankman, P. J.

A089584 -- The People v. Tuan Van Vu.

Accordingly, the judgment is affirmed. Swager, J. We concur: Stein, Acting P. J., Marchiano, J. (Not for Publication.)

Division Two

A093119 -- In re Fredric Ferguson on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A089303 -- The People v. Patrick Robert Sherwood.

The judgment of the trial court is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Tuesday, November 28, 2000 (continued)

A093122 -- Elnora Terrell v. The Superior Court of Alameda County; Marian Allred, R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied.
Kline, P. J.

Division Three

A091287 -- The People v. Michael Fitzgerald Anderson.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J.,
Corrigan, J. (Not for Publication.)

A089317 -- In re Randy L., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J.,
Walker, J. (Not for Publication.)

A090813 --In re Rhett T., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J.,
Walker, J. (Not for Publication.)

A089317 - In re Randy L., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. McGuiness, P. J. We concur: Parrilli, J.,
Walker, J. (Not for Publication.)

Tuesday, November 28, 2000 (continued)

Division Five

A088891 -- Mat J. Rogers v. Rene Peinado et al.

The judgment is affirmed as to Peinado. The judgment is reversed as to Franck and Gargaro. Peinado shall recover his costs on appeal from Rogers. Rogers shall recover his costs on appeal from Franck and Gargaro. Jones, P.J. We concur: Stevens, J., Rivera, J.* (Certified for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A088393/A089156 -- Webcor Builders v. Atlas Construction Supply, Inc.

The judgment of the trial court is affirmed. Stevens, J. We concur: Jones, P. J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, November 29, 2000

Division One

A089032 -- Giovanna Rovetti v. Marriott International, Inc.

The summary judgment is reversed and the cause is remanded to the trial court for further proceedings consistent with this opinion.

Appellant is awarded her costs on appeal. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A091219 -- Patricia McColm v. The Superior Court of Marin County; Fireman's Fund Insurance Company et al., R. P. I.

By the Court: The petition for writ of mandate/prohibition is denied. Kline, P. J.

A090169 --The People v. Douglas Tyrone Blue.

A092160 -- In re Douglas Tyrone Blue on Habeas Corpus.

Accordingly, the record convinces us that this is not an instance where the petitioner is making a self-serving claim of ineffective assistance of counsel because he now regrets having rejected a plea bargain. Instead, we find Blue has made a prima facie showing that he rejected the plea bargain offer due to misleading, incorrect advice given by his trial counsel.

However, Blue's potential relief is not for this court to grant an order reducing his sentence by one year from 44 months to 32 months, as Blue requests. We do not have jurisdiction to grant Blue specific performance of the original plea offer. (See *In re Alvernaz*, *supra*, 2 Cal.4th at p. 944.) Instead, by separate order filed this date, we have issued an order to show cause, returnable to the Contra Costa County Superior Court, in order for that court to hold an evidentiary hearing. The trial court shall determine whether counsel's advice to Blue constitutes ineffective assistance of counsel and whether Blue would have accepted the plea bargain but for counsel's deficient performance. If so, the trial court is ordered to vacate the judgment of conviction and restore Blue's pretrial plea of not guilty and his right to a jury trial. Ruvolo, J. We concur: Kline, P.J. Lambden, J. (Not for Publication.)

Wednesday, November 29, 2000 (continued)

Division Three

A085749 -- Sukhwinder S. Sangha et al. v. Alfred Bianchi et al.

The judgment is affirmed. Respondents are awarded their costs on appeal. Parrilli, J. We concur: McGuinness, P. J., Walker, J. (Not for Publication.)

A089304 --The People v. Michael Dean Green.

Appellant was properly sentenced pursuant to three strikes. As reflected in part I. above, we have found no other arguable issues for review pursuant to *People v. Wende, supra*, 25 Cal.3d 436. The judgment is affirmed. McGuinness, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A088134 -- The People v. Michael Anthony Garcia.

The judgment is reversed and the cause remanded. Within 30 days from the finality of this decision the People may elect to retry appellant on one or both of the counts for violation of Vehicle Code section 10851 and Penal Code section 496. In the event there is no retrial, the trial court is directed to reinstate the conviction under the Vehicle Code section, with the same sentence as previously imposed. Walker, J. We concur: McGuinness, P. J., Corrigan, J. (Not for Publication.)

A086867 -- People v. Kay Renee Morris.

By the Court: (See order.) McGuinness, P. J.

A086867 -- People v. Kay Renee Morris.

Affirmed. Walker, J. We concur: Corrigan, Acting P. J., Parrilli, J. (Not for Publication.)

A088111 - The People v. Carvey Lynn Weathersby.

The judgment is affirmed. Parrilli, J. We concur: McGuinness, P. J., Corrigan, J. (Not for Publication.)

Wednesday, November 29, 2000 (continued)

Division Four

A088689 -- The People v. Cornelius Saulsberry.

The judgment is affirmed. Sepulveda, J. We concur: Reardon, Acting P. J., Woolard, J.* (Not for Publication.)

* Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089922, A089926 -- Tom Church v. Roxie Cinema et al.

The judgment is affirmed. Hanlon, P. J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A087252 -- The People v. Joyce Jones.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P. J., Sepulveda, J. (Not for Publication.)

A088416 -- City and County of San Francisco v. Dennis L. Givens.

The trial court acted in accordance with the law and its determinative finding is supported by substantial evidence. The order must therefore be affirmed. Sepulveda, J. We concur: Hanlon, P. J., Reardon, J. (Certified for Publication.)

Division Five

A086914 -- Richard Norris v. City and County of San Francisco.

The judgment is affirmed. Costs are awarded to respondent. Richman, J.* We concur: Jones, P. J., Stevens, J. (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, November 29, 2000 (continued)

A091429 -- The People v. Harold H. Fagan.

The order is affirmed. Jones, P. J. We concur: Stevens, J., Richman, J.*
(Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089186 -- The People v. Belquis Amin.

By the Court: The opinion filed on October 30, 2000, is hereby certified for publication. Jones, P. J.

Thursday, November 30, 2000

Division One

A092055 -- The People v. Richard Frederick Bauer.

The judgment is affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A083457 -- Peralta Community College District v. Board of Governors of the California Community Colleges, et al.

It is ordered that the appeal of Board of Governors of the California Community Colleges be dismissed with prejudice and without costs to any party and that the remittitur be issued immediately. Strankman, P. J.

A091548 - Timothy C. Smith v. Michael Rangal.

By the court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Strankman, P. J.

A092999 -- Lost Coast League, et al. v. California Department of Forestry and Fire Protection.

By the Court: Appellant having failed to procure the record on appeal within the time allowed or within any valid extensions of time, and having failed to show good cause for relief from default, the appeal filed October 26, 2000, is dismissed. (See Cal. Rules of Court, rule 10(c).) Strankman, P. J.

Division Two

A082334 -- The People v. Raymond Joseph Reiter.

The judgment is reversed as to the conviction of murder. The judgment is affirmed in all other respects. Haerle, J. We concur: Kline, P. J., Ruvoilo, J. (Not for Publication.)

Thursday, November 30, 2000 (continued)

A087591 -- Adolphus Ray Morgan v. The Regents of the University of California.

The judgment is affirmed. Kline, P. J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A090054 - Sherry Donahoo et al. v. Bill Buchner.

The judgment is affirmed. Sanctions are imposed against Abraham Virdeh, the Donahoos' appellate counsel, in the amount of \$8,400 for prosecuting a frivolous appeal, to be paid as directed in this opinion. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A089169 -- The People v. Stephen Degrate.

Affirmed. Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A089592 -- The People v. Jodell Crain.

The judgment is affirmed. McGuinness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A088168 -- The People v. Shyla Colleen Ducker.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A086644 -- The People v. Clifford Lacayo.

A086710 -- The People v. Cesar A. Martinez.

The judgments are affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J.

A086051 -- Dorene L. Musilli v. Alioto & Alioto et al.

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Thursday, November 30, 2000 (continued)

A089556 -- Pacific Gas And Electric Company. v. Public Utilities Commission; Independent Energy Producers Association et al, R.P.I.

Decision Nos. 99-12-022 and 99-05-032 are set aside. Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Certified for Publication.)

A091212 -- In re Christopher T., a Person Coming Under the Juvenile Court Law.

The People v. Christopher T.

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A082346 -- The People v. Ruben M. Villasenor.

The judgment is affirmed. Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A090376 -- The People v. Patricia Weaver.

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

A091069 -- In re Samuel Y., a Person Coming Under the Juvenile Court Law.

Affirmed. McGuinness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

Division Four

A089447 -- The People v. Stanley Nacht.

The abstract of judgment is ordered corrected to reflect an award of 110 days' conduct credits, rather than 45 days, for a total of 332 days' presentence credit. A copy of the corrected abstract shall be sent to the Director of the Department of Corrections. In all other respects, the judgment is affirmed. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)